What Every Gun Owner Needs to Know About Self-Defense Law

by Marty Hayes, J.D.

This booklet is provided by

Armed Citizens' Legal Defense Network, Inc.

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Introduction

With firearms ownership comes serious responsibilities. These responsibilities take several forms, including–

1. Responsibility to ensure that your firearms do not fall into criminal hands due to carelessness or neglect.
2. Responsibility to ensure that a child does not get a hold of your firearm, resulting in a tragedy.
3. Responsibility to ensure that when you are handling your guns, your actions are safe and responsible.
4. And finally, it is your responsibility to understand the laws regarding use of deadly force in self defense and to be aware of what happens within the legal system when a citizen uses deadly force in self defense.

Let's briefly address the first three areas of responsibility before going on to the fourth, which is the main topic of this booklet. The first two responsibilities require safe, secure storage of your firearms any time they are not in your immediate possession.

The National Rifle Association and hundreds of private trainers and firearms schools all across the nation teach gun safety and firearms responsibility to hundreds of thousands of people every year. Obtaining training from these folks is how you fulfill the responsibilities in the third concern listed. The Armed Citizens' Legal Defense Network, Inc. urges you and other gun owners to seek out and attend competent training, both to assure that you understand how to meet your responsibilities and to document your training and knowledge about gun safety and responsibility. Documented training is part of the antidote to post-shooting accusations that you acted without regard for your responsibilities to society.

This booklet is designed to introduce you to the fourth area of concern so you can begin to understand your legal rights and responsibilities when using deadly force in self defense. The information in this booklet should not be considered the sum total of your legal education, but instead, you should think of it as a starting point.

In closing, thank you for taking the time to read this booklet and for being a responsible gun owner.

Marty Hayes, President
The Armed Citizens' Legal Defense Network, Inc.

Chapter 1
The High Cost of Self Defense

Deciding to carry a gun or to arm yourself for home defense is a choice that should be made only after thorough consideration. Many people buy guns with little thought of getting training and without investigating what the legal aftermath may be if they use a gun for self defense.

While a clear-cut case of self defense normally results in no arrest, no prosecution, and no lawsuit, please understand that many, many cases of self defense simply are not clear cut. For example, what if someone a little larger and stronger than you picks a fight with you? Can you shoot him? At what point in the altercation would you have a right to shoot?

What if three people, perhaps pan handlers obviously involved in aggressively begging, surround you and demand money? When you feel threatened by their insistence, can you draw your gun to stop their aggression?

What if someone threatens your life, so you shoot him, but at the instant you determined you had no other choice but to shoot, he twisted or turned away, so one or two of your shots hit him in the back? What if one of the shots in the back is the fatal shot? Do you think you might be prosecuted?

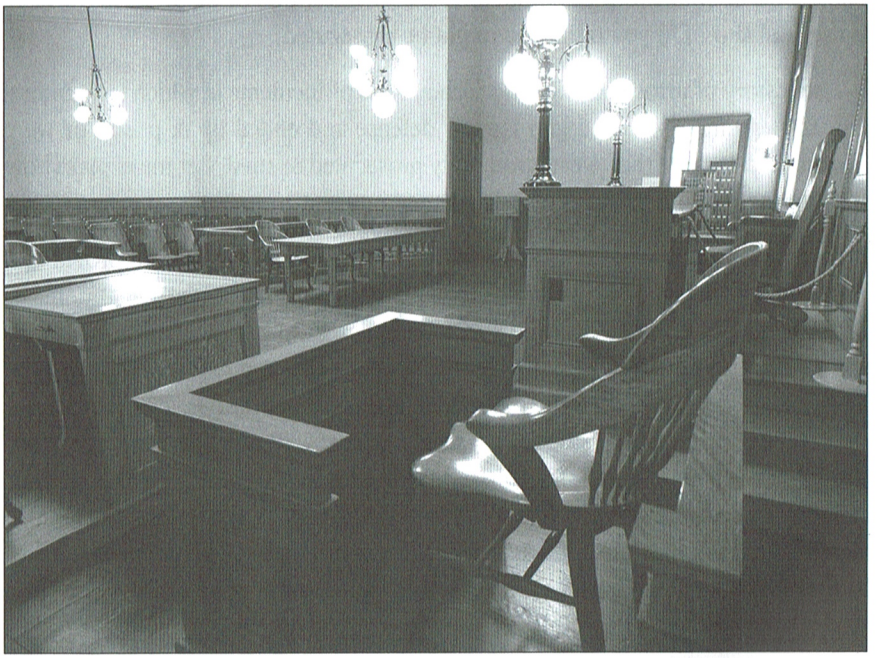
The history of armed self defense is chock-full of incidents in which law abiding citizens legitimately used a gun for self defense and ended up in prison or were bankrupted because they were wrongfully prosecuted or sued. Let me explain how the aftermath of a legitimate act can go so wrong.

First, if you are arrested after an act of self defense, you will be provided a public defender or you will have to foot the bill yourself for your legal defense. Most people scoff at the idea of a public defender, but I have met and worked for some very good public defenders. It is very likely that a public defender will be well-respected and well-liked by the courts. That's the good news. The bad news is that in the typical case, there is not much of a budget with which to hire expert witnesses, crime scene reconstructionists and investigators who may be able to track down that one witness who might tell your side of the story. In addition, it is also unlikely that your public defender, or for that matter, a private criminal defense attorney, will have much experience handling legitimate cases of self defense. This is true because most acts of self defense are not prosecuted.

When a legitimate case of self defense (as opposed to a claim of self defense that is offered purely as a legal strategy) comes before the court, it can become

pretty expensive, not only in dollars, but also in time and psychological and sociological impacts. For example, if you become the subject of your local newspaper's headline news, your neighbors, your kids' friends and even your professional contacts will likely pass judgment long before a jury does. Your kids may have to face accusations from their playmates that their father or mother is a killer, business associates may avoid working with you, and your neighbors may voice hurtful, ignorant opinions about the actions you took to survive. You might even lose your job because it is pretty hard to work if you are locked up in jail for murder if you cannot raise bail money. Do you think that losing your job and facing mounting legal bills might disrupt your family life, too?

These are only some of the reasons gun owners must understand when it is justifiable to use deadly force in self defense, as well as learning what to expect from the legal system if they are left with no viable alternatives and must shoot an attacker.



Sitting in the witness' chair and at the defendant's table in a courtroom is one of the possible outcomes of being involved in a self-defense shooting.

Chapter 2
When is Deadly Force Justified?

Internationally recognized self-defense expert Massad Ayoob states it best when he explains, "Deadly force is justified only when undertaken to prevent imminent and otherwise unavoidable danger of death or grave bodily harm to the innocent."[1]

If you memorize and live by that one sentence, you should never be found guilty of a crime involving use of deadly force. While nuances of self-defense law differ from one state to another, all states allow the armed citizen to use deadly force against another human being when their life or the life of a loved one or another innocent person is in imminent danger. It is not that simple, however, and several aspects of using deadly force can still land you in court. While one concern entails understanding when circumstances merit using deadly force, the second is making sure law enforcement, the prosecutor's office, and if necessary, a judge and jury understand that you reasonably believed your actions were necessary to protect innocent life.

The Reasonable Man Doctrine

The standard against which your use of deadly force in self defense will be measured is called the standard of the reasonable person. This criterion asks, "Would a reasonable person under the same circumstances, knowing what you knew at the time, likely have used deadly force in self defense?" If you can convince the jury that they would have done the same thing, then you will walk free. On the other hand, if the members of the jury say to themselves, "No, I wouldn't have pulled the trigger under those circumstances," then the verdict will probably not be in your favor.

How do we convince a jury that we acted as a reasonable person would have acted?

The Elements of Ability, Opportunity and Jeopardy

For decades, police officers have been taught that they can employ deadly force only under circumstances in which the elements of "ability," "opportunity" and "jeopardy" are present. The same method of teaching justifiable use of deadly force has been employed in the civilian sector for at least three decades. You won't see any of these terms in the law books and court decisions, however. Instead, you will see something like the following, which is taken from Revised Code of Washington:

RCW 9A.16.050 Homicide—By other person—When justifiable. *Homicide is also justifiable when committed either: (1) In the lawful defense of the slayer, or his*

or her husband, wife, parent, child, brother, or sister, or of any other person in his presence or company, when there is reasonable ground to apprehend a design on the part of the person slain to commit a felony or to do some great personal injury to the slayer or to any such person, and there is imminent danger of such design being accomplished; or (2) In the actual resistance of an attempt to commit a felony upon the slayer, in his presence, or upon or in a dwelling, or other place of abode, in which he is.

The laws of your own state probably have similarly complicated language, requiring several readings to really understand what the law requires. Still, a careful reading will show the parallels between the complex language of most state statutes and the more easily understood terms of "ability," "opportunity" and "jeopardy" that give us clearly understood language with which to discuss and articulate **why** we had a reasonable belief that our life was in danger.

For example, in explaining a decision to use deadly force in self defense, you might say, "Well, because he had a gun in his hand, which I know is a deadly weapon, I knew he had the ABILITY to cause my death. I also knew from my training that a person within close proximity was near enough to shoot me with that gun, in other words he had the OPPORTUNITY to shoot me if he so desired. Because he said he was going to kill me, I also believed that he meant to place my life in JEOPARDY."

Would a reasonable person, hearing that statement, conclude that your actions were those of a reasonable person? Likely so.

Now, let's do a better job of putting into context the three elements of "ability," "opportunity" and "jeopardy," as used to justify using deadly force in self defense.

Ability

Ability means that the attacker possessed a weapon capable of causing death or grievous bodily harm. The object in question could be a makeshift weapon, like a beer bottle, a baseball bat, pool cue or even folding chair, if used to inflict a blow. Generally speaking, charges brought against someone for defending themselves or another innocent person rarely center on whether or not the attacker possessed the ability to cause death or serious injury, with a couple of glaring exceptions.

The first exception is when the attacker you shoot does not have a weapon or an object capable of being used to inflict serious bodily injury, but you thought he did. For example, in my home state of Washington a few years ago, a police friend of mine shot and killed an assailant who was armed with a couple of spoons. That's right: spoons. The prosecutor did not press charges against my friend because under the circumstances of the shooting he reasonably believed the spoons were a knife. The critical issue is the reasonable perception that the attacker possesses a weapon.

A related exception is found in the furtive movement shooting, in which an individual is shot when he reaches for something that the defender honestly and reasonably believes is a weapon. Under most circumstances, if the perception is found to be a reasonable one, the defender's response will be ruled justifiable.

The second exception, and the one that lands people in jail time and time again, crops up when the defender uses deadly force against an unarmed attacker, or even to fend off multiple unarmed attackers. This happens with surprising frequency, and more often than not, the defender ends up paying a high price legally. The issue involved is called "disparity of force," and it is a critical one.

When a legitimate self-defense shooting ends up in court, many times the civil litigation or criminal prosecution hinges on the question of disparity of force. After all, if a prosecutor knows the attacker had a deadly weapon and was in fact attacking, he is likely not going to prosecute the self-defense shooter. But what happens when the defender is being stomped to death, choked to death, or otherwise believes a deadly force attack is imminent or underway? And, what if that defender shoots one or more of his assailants, but they claim that they were only beating him up, not trying to severely injure or kill him?

Legally speaking, likely it was lawful for the defender to use force in self defense, but in court the claim is made that he or she used excessive force. Under these circumstances, the defendant will need to show the jury, or a judge if the case is

An argument that disparity of force existed may be used when multiple assailants attack.

heard at a bench trial, that they had a reasonable belief that the attackers possessed the ability to cause death or serious physical injury. For the exact parameters of laws of your local jurisdiction, consult the criminal statutes and the self-defense case law of your own state or consult a local attorney who is knowledgeable about self-defense law.

Opportunity

In addition to showing that the attacker or attackers had the ability to cause your death or inflict serious physical injury, you must also show that they had the opportunity to carry out a deadly force attack. This usually entails showing that they were close enough to use their ability against you.

For example, if the attackers simply have their hands and feet with which to attack, they would have to be very close–close enough to control you and hit and kick, typically within arm's reach. But does that hold true for what is called a "contact weapon," a knife, or another object make-shifted as a weapon, like a beer bottle or a baseball bat?

In the 1970s Dennis Tueller, a Salt Lake City police sergeant, did a study comparing how long it took an officer to draw and fire a handgun with how long it took an average person to run at them from a distance of seven yards and inflict a fatal wound. The times for both drawing and firing and running 21 feet averaged out to about 1.5 seconds. In law enforcement training, that meant the officers faced with a person armed with a contact weapon should draw their weapons much sooner than had been commonly thought. Knowing that a person can close a distance of 15 to 30 feet in one to three seconds should be part of your mindset, too, and before you decide the person possesses the opportunity to use their ability against you, you need to work out how distance and proximity play into the "opportunity" factor, combined with the unique circumstances of the incident.

Jeopardy

If the elements of ability and opportunity are both present in an altercation, you must still convince a judge or jury that it was reasonable for you to believe that your life was in jeopardy. The element of "jeopardy" is also sometimes identified as the element of "intent." Was the attacker or were the attackers intending to carry out an attack? Was your life in jeopardy?

Usually, this issue comes up in cases of unlawful display of a weapon or "brandishing." To successfully defend against a charge of brandishing, you will need to give sufficient detail about the actions of the attacker or attackers to show how their behavior would lead a reasonable person to believe that they were preparing to attack.

Chapter 3
The Affirmative Defense of Self Defense

The Section 210.1 of the Model Penal Code, which is the basis for the majority of murder and manslaughter statutes in America, states:

"Criminal Homicide. (1) A person is guilty of criminal homicide if he purposely, knowingly, recklessly or negligently causes the death of another human being. (2) Criminal homicide is murder, manslaughter or negligent homicide."

What is glaringly absent in the above definition is any mention of self defense. Thus, if you intentionally use a gun against another person and that person dies, you have fulfilled the elements of the crime of murder or manslaughter and can be arrested and tried. Only at trial, do you have the opportunity to claim and proffer a defense of self defense.

However, if you have a legitimate claim of self defense, many prosecutors or district attorneys won't prosecute because they know that it is a waste of taxpayers' money. Unfortunately, some will and do prosecute clear-cut cases of self defense for political reasons. If their community leans towards an anti-gun, anti-self-defense bias, then a politically-savvy district attorney or prosecutor is likely to pursue any gun case in their jurisdiction. As gun owners, this is the reality we face, especially in self-defense cases that are not black and white, but like life in general, have a lot of shades of grey.

Whatever the motivation, if you are prosecuted or sued after a legitimate act of self defense, you and your attorneys will need to prove to the jury, by a preponderance of the evidence, that you were justified in your act of self defense.

In a typical criminal prosecution, a prosecutor must prove guilt beyond a reasonable doubt, and the burden is on the prosecution to bring forth evidence to prove the charges. That means they must prove the elements of the crime. If you are tried in a state that follows the model penal code, it isn't too tough to show that your actions were the same as those spelled out in the crime of murder or manslaughter, because the evidence will easily show that you purposely used a firearm to shoot and kill the deceased.

If you plead self defense, the burden of proof shifts to you and you are required to prove by a preponderance of the evidence (51% or greater) that your self-defense act was reasonable under the circumstances because you legitimately feared death or crippling injury and that the force you used was not greater than what was reasonable and necessary.

Because this small booklet only addresses deadly force issues common to all 50 states, we cannot advise you on specifics of your state's law. In addition, because statutory law and case law are subject to change, you should look up and study the laws of your area or consult with a local attorney who is well-versed in self-defense law to make sure you fully understand the laws in effect where you live.

Proving Your Claim of Self Defense

The armed citizen who has been forced to shoot in self defense faces a conundrum. You see, after a shooting, the police will be called (either by you or another person) and when they question you, anything you say can be used against you in a court of law. If what you say or don't say raises suspicions that you were not justified in shooting, you will probably be jailed until you can get a preliminary hearing in front of a judge. Conversely, if the officers believe you legitimately shot the attacker in self defense, you will more likely than not sleep in your own bed that night. Thus, the question is, how do you explain to responding officers what happened, but still invoke your right to remain silent? The answer is, you cannot. You must make a decision whether to keep silent or to explain what happened. Let's evaluate the pros and cons of both so you can make an informed decision.

If you refuse to talk to the responding officers, it is extremely likely that you will

There is no simple answer to the question of how much you should tell officers responding to a shooting scene, but that choice has serious implications, so must be considered in advance.

be arrested—maybe not 100% of the time, but often enough that you should plan on spending the next several days, and perhaps the next several weeks or months, in jail. While that's pretty bad, at least you didn't incriminate yourself by your own words. That is about the only upside to keeping silent, but please understand that if you live in a jurisdiction that is rabidly anti-gun and anti-self defense, you may likely be arrested anyway, so sometimes a decision to remain silent might make sense. It is your choice.

On the other side of the coin, discussing the incident with law enforcement might keep you out of jail and out of the courts, if you explain to the police officers why you felt shooting in self defense was necessary. This requires that you be a good witness and clearly explain the attacker's actions, telling the responding officers what the attacker or attackers were doing that convinced you that your life was in danger. It means identifying for law enforcement anyone else in the area who saw the incident. It also means pointing out any evidence that the officers might overlook in their investigation. For example, if you knew that the attacker's buddy grabbed his weapon and threw it in the bushes, it is probably a good idea to tell officers that the weapon is in the bushes, and how it got there.

If you are going to claim self defense at trial, this approach is necessary because the police need to know what happened that caused you to shoot.

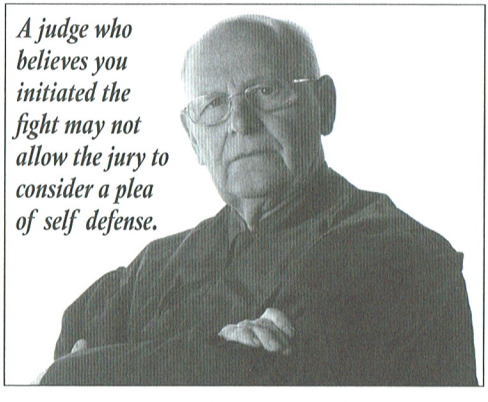
However, being a good witness doesn't require explaining every minute detail about your act of shooting. When you were attacked, you were likely under extreme stress in survival mode and the fight or flight instinct kicked in. Physio-psychological effects known to occur during stressful incidents make you a poor witness about the facts and specifics of the attack. These physio-psychological effects include distorted perceptions of time and distance, plus tunnel vision and auditory exclusion, any one of which can result in an inaccurate report of the event if you try to report specific details.

Instead of going into detail when speaking with responding officers on the scene, I recommend briefly explaining what the attacker did to precipitate your self-defense actions plus pointing out evidence that could be lost or overlooked and identifying witnesses to the event. Next, state that you would like the counsel of an attorney before you give a formal statement, a written statement or even a tape-recorded statement. Once you've said that, keeping your mouth shut is likely the best approach. You have been a good witness and cooperated with the police. You have reported the crime committed against you, and frankly that is as far as you need to go at that time.

Chapter 4
The Initial Aggressor Rule

Even if ability, opportunity and jeopardy were present in the altercation and it was reasonable to believe your life was in danger, if you use deadly force in self defense you could still be convicted of a serious crime. This could occur if you were the one who originally started the altercation. Even if the altercation was not a deadly force situation at the beginning, if it escalates to the point where you actually need to use deadly force to prevent serious bodily injury or death, you will still likely be arrested, prosecuted and probably convicted of the crime of manslaughter.

The initial aggressor principle is not likely to be mentioned in statutory law, but it is contained in most if not all of the common law[2] of the individual states. It is seen as a public policy issue, and the Justices of the state appellate courts are pretty much in agreement that the one who starts a fight should not get off scot-free if they kill someone, even if at the end, that killing constituted legitimate self defense.



Issues about the initial aggressor come up in prosecutions for assault if the person survives or in murder or manslaughter cases if the person dies. If the judge trying the case believes that you started the altercation, he or she is allowed by law to withhold a self-defense instruction from the jury. The jury then does not get to decide if you were justified in using deadly force. If you are claiming self defense and the judge refuses to give a self-defense jury instruction, you are pretty much sunk, at least for that trial and subsequent conviction. You might win a new trial upon appeal, but that will likely take several years, during which you will be in prison.

There is one thing that will restore your right to self defense even if you were the initial aggressor, and that is withdrawing from the altercation. Your claim to self defense can be restored if you can show evidence that you reasonably withdrew from the altercation, and then the person you shot came after you and started a new altercation.

Chapter 5
Defending Others

Up until now, this booklet has only addressed the use of deadly force in self defense. Now, we are going to discuss defending others. The right to use deadly force in defense of other people comes from the common law of England, where it primarily addressed a man's defense of his family. Of course, times have changed, and now the logical need to defend other innocent people out in public in addition to family members, is certainly a distinct possibility. There are two legal issues at work here, one based on the common law, and the other based on statutory law, including the model penal code.

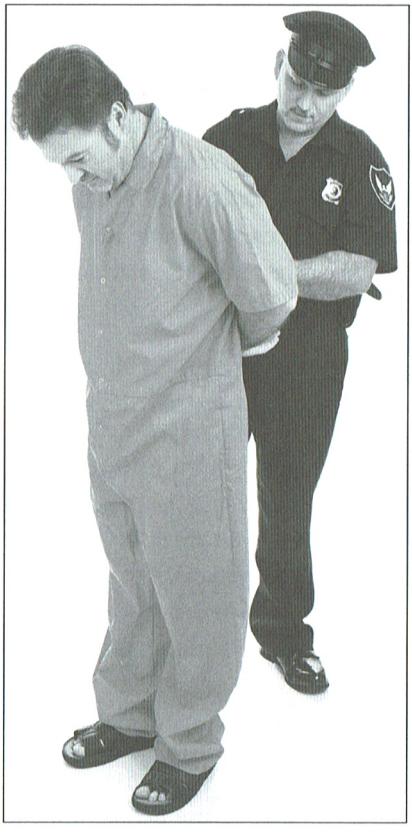
The Common Law Approach

In most states, this bit of common law developed over the first two centuries of America's history and came into existence when judges decided whether or not a third person was justified in using deadly force in the defense of others, under the legal concept of "standing in the shoes" of the person you are defending. This means if the people whom you were defending were legally allowed to use deadly force to defend themselves, then it is also legal for you to intervene with deadly force on their behalf, to save them from suffering great bodily injury or death.

In a real world scenario, the armed citizen needs to know enough about the situation in which they intend to intervene to understand whether the person they propose to protect has a legal right to use deadly force in self defense. In other words, if the intended victims had been armed and able to use deadly force to defend themselves, would their actions have been legally justifiable? For example, if you are shopping at the local suburban mall, and someone pulls out an AK-47 rifle from underneath his overcoat and starts shooting innocent people, you would be legally justified in shooting him to stop his murderous attack on the other shoppers.[3] That response would be legal because it is never justifiable to shoot innocent people in a shopping mall, and so a decision to intervene is easily justified.

Let's change the scenario and suppose that you are walking down the street in an urban setting and you come across two people beating up a third person. All three are strangers to you. If you immediately intervene, perhaps by pointing your gun at the people you believe are assaulting the third individual, you might be found guilty of assault yourself, because you didn't really know enough about the situation to stand in the third person's shoes. Do you know if he started the fight? What if a knife is now hidden beneath his body, and moments before you stumbled upon the scene he had threatened the others–the people you are now

holding at gunpoint? Depending on locale, this would likely be prosecuted as a case of second degree assault or assault with a deadly weapon, because the guy on the ground who you thought was an innocent victim is actually the one who started the altercation. He does not have a right to use force in self defense under the initial aggressor rule, which we covered a bit earlier.



You could be arrested for assault with a deadly weapon after defending the wrong person.

Under the Model Penal Code

Alternatively, many states have adopted the Model Penal Code as their guide to statutory law, and in these states, the right to defend others is simply predicated on what a reasonable person believed the situation to be, and what amount of force a reasonable person would employ. There, it is unlikely that you would be prosecuted for pointing your gun at the two, because you reasonably believed you were stopping an aggravated assault.

Intervening in situations containing unknown factors is complicated. When defending others, the best strategy is one that combines requirements from both common law and statutory law into a workable plan in which you intervene only if it is legal for you to use deadly force if you stand in the shoes of the person you are defending and at the same time reasonably believe that the other person's life is in grave danger. Realistically, this means defending only your loved ones or other people about whom you know enough to be sure they are innocent, unless the situation entails an obviously heinous act, like a shopping mall mass murder.

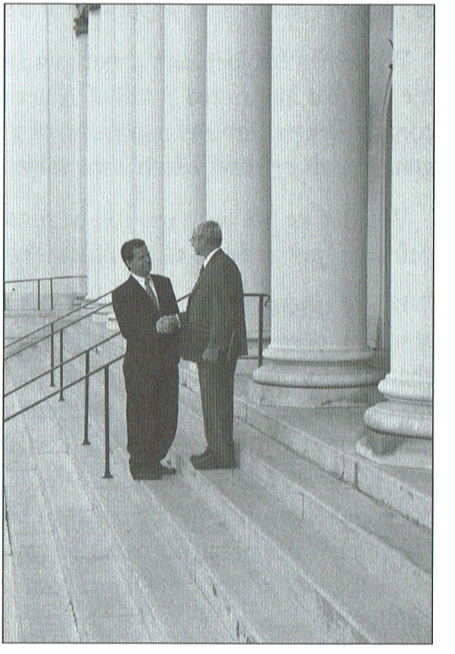
As we close out this topic, let me emphasize that it behooves you to learn about the system of law under which your state operates. Knowledge is power, and when you decide to use a gun in defense of others, the more knowledge you have, the more likely you are to avoid mistakes.

Chapter 6
The Castle Doctrine and the Duty to Retreat

During the late 1990s and into the 21st century, a dramatic shift in U.S. self-defense law occurred. Many states passed laws permitting citizens to carry concealed handguns, as well as strengthening laws allowing use of deadly force in self defense. These include what are sometimes called "Castle Doctrine" laws and "No Duty to Retreat" laws. In general, these laws state that a citizen has no duty to retreat from an altercation and if self-defense actions are warranted, citizens can stand their ground and defend themselves. Before this trend, common law in many states required retreat if it was possible without incurring further risk. Additionally, many states have and others are strengthening the right to defend against criminal attack inside one's home. For example, in 2007, Texas passed what some call a "Castle Law," which in part indicates that the homeowner may presume the use of deadly force is allowed in defense against anyone committing a burglary to an occupied dwelling.

Additionally, some states have even written a provision into their statutory law that releases citizens from civil liability for acts committed in lawful self defense.

Of course, there are practical limits within each different law, so it is imperative that you, the gun owner, research and understand statutory law and case law as it pertains to your individual state. If you cannot do this by yourself, I recommend contacting an attorney who is knowledgeable on this subject and paying for an hour of his or her time to discuss these issues and their specific application within your own city and state.



Legislation about carrying guns for self defense, about shooting if threatened in your own home, and new laws clarifying issues about requirements to retreat if endangered in public are all positive changes for citizens who keep guns for self defense.

Conclusion
Gun Owner Rights and Responsibilities

We live in interesting times. As I write this, we are entering an election year for President of the United States, where the stakes for gun owners is at an all time high. On one side of the issue, we have a Supreme Court that by the narrowest of margins (5-4) has upheld an individual right for Americans to own and keep firearms for self defense albeit at this time, only in the home. The right to carry in public has not come before the court yet. But, what if it does come before the court, say in 2013 or 2014? Will the Supreme Court be the same? Likely not, as there are several elderly justices on the court now, and the newly elected President will be appointing more justices in the next four years. If the election goes badly for gun owners, we may end up with no clear resolution to the issue.

And, taking that to the next step, we have a hodgepodge of gun laws throughout the United States of America, which can make carrying your gun in public legal or illegal depending on which side of a state line you live on.

While this booklet isn't about gun laws, the aforementioned issues point out the fact that the United States of America is a polarized society, not only when it comes to ownership and possession of guns, but also on the question of the use of guns for self defense, which is the subject of this booklet.

Whether or not a person will be prosecuted for the act of using a gun for self defense is just as much of a political decision as it is a legal one.

If any aspect of an act of self defense brings into question whether or not the attackers possessed the elements of ability, opportunity and jeopardy, or if a shadow of a question about the reasonability of choosing to shoot exists, it opens the door to an unmeritorious prosecution. Though you were justified to shoot to prevent losing your life, you will now face a legal fire storm as the prosecution, judge and jury analyze your self-defense actions from the safety of the courtroom. As gun owners, if only for our own best interests in avoiding prosecution after legitimately defending ourselves, we owe it to ourselves to have a clear and complete understanding of the laws about self defense and the legal system that will enforce those laws.

With these facts in mind, the Armed Citizens' Legal Defense Network, Inc. makes this booklet available free of charge to armed citizens across the country, hoping that the information contained herein will help them take the correct action when faced with a possible criminal attack. We invite the reader to join the Armed Citizens' Legal Defense Network, Inc. to further protect their rights after a legitimate act of self defense.

Endnotes:

[1] *In The Gravest Extreme*, by Massad Ayoob, ISBN 978-0936279008

[2] Common law, also called case law, is created by judges when deciding individual disputes or cases. Thus, it is written into the judicial findings and is not published as is statutory law when a state's legislative body passes a law.

[3] Tacoma (WA) Mall Shooting, Nov. 20, 2005
See http://en.wikipedia.org/wiki/Tacoma_Mall_shooting

A personal message from the author

Thank you for taking the time to read this booklet and for being the type of gun owner who will take the time and energy to learn about the rights and responsibilities of owning a gun for self defense. Because you *are* this type of person, I would like to introduce the Armed Citizens' Legal Defense Network, Inc. (the Network) to you, describe what we do and explain why we offered this booklet to you free of charge.

After completing law school three years ago, I decided to launch the Network to provide a vehicle whereby its members would not have to fear being prosecuted for exercising their God-given right to self defense. Way back in 1990, I had started a regional firearms training company, The Firearms Academy of Seattle, Inc. Over the ensuing years, while operating the academy and teaching firearms use for self defense to thousands of people, I repeatedly heard voiced a common question and concern that was always in the forefront of student's minds. Their questions were about what was likely to happen to them and how to handle the aftermath of a self-defense shooting. Unfortunately, the answers were not simple.

Early on in my teaching career, I learned that the best advice was for each person to have an attorney they could call in the event of a self-defense shooting– an advocate who would represent them during their interaction with law enforcement, and, if necessary with the prosecutor's office. But just having the name of an attorney really wasn't a good enough answer, because attorneys cost money, and sometimes lots of it. For example, simply handling a misdemeanor criminal defense will cost at least $5,000. It can cost more if outside experts and witnesses are needed. A felony murder, assault or manslaughter defense can cost upwards of $100,000, and that would bankrupt most people. While the honest, hard-working armed citizen has to pay for his or her own criminal defense, the prosecutor likely has plenty of money to throw at any case they deem worthy.

Let me give an example.

Recently, a hard-working family man in Tucson, Arizona was assaulted by three of his neighbors. During this assault, he was blind-sided by a younger and stronger man. After suffering this blow, and fearing he would be knocked unconscious and possibly stomped to death or have his handgun taken away and used against him and his family, he drew his lawfully-concealed weapon and fired three shots to stop the attack. The bullets struck two of his attackers. Instead of arresting the people who attacked him, the police focused on the armed citizen, and arrested him for three felony counts of aggravated assault. In Arizona a grand jury decides whether

to indict or drop charges. So, a grand jury was convened.

The armed citizen was never allowed to testify before the grand jury, though the people who attacked him did. The lead detective on the case gave testimony contradictory to the actual evidence at the scene, and that cemented the three felony indictments the grand jury sent forward to trial. This is the one-sided system the armed citizen faces if the prosecution wants to convict you.

Two trials and over a year passed. Both trials ended in hung juries and were declared mistrials. Finally, the charges against the armed citizen were dismissed.

Miscarriages of justice like the one in Tucson occur all the time. Even though the United States of America has a criminal justice system second to none, it still isn't perfect and it is becoming more imperfect every day. If you think this is hyperbole, do a little research on The Innocence Project and read about the hundreds of innocent people who have been wrongfully convicted and collectively have served thousands of years in jail, before The Innocence Project's efforts won their release.

Over the years I have served as an expert witness for many people who were either innocent of the charges against them, or who were dramatically "over charged" by the prosecution. I have testified many times in superior courts, and advised on many more cases. These experiences shape my belief that while most defendants are guilty of the crime of which they are accused, many others are in fact wrongfully prosecuted.

Most of the time, when a citizen shoots in self defense, the police and prosecution figure out what precipitated the shooting and no charges are brought. However, because that result is not guaranteed we need to be able to effectively fight an unmeritorious prosecution, in case we are targeted.

From these concerns was the Armed Citizens' Legal Defense Network, Inc. born.

I was completing my law degree, when the idea behind the Network began to take shape. I approached many of my colleagues, leading self-defense trainers, and explained the concept of the Network. I asked them a simple question: "What would you think of a membership organization that would come to a member's defense if they are unmeritoriously prosecuted after being forced to use deadly force in self defense?" The response to that question was overwhelmingly positive and I was encouraged to proceed. In January 2008, in concert with partners J. Vincent Shuck and Gila Hayes, I officially formed the Armed Citizens' Legal Defense Network, Inc. and we started telling people about the Network's mission.

Who We Are

The Armed Citizens' Legal Defense Network, Inc. is an organization of thousands of lawfully armed citizens, attorneys, firearms instructors and experts who have joined together in an organization that will come to the aid of one of its own if a member is prosecuted or sued for a legitimate act of self defense. The vehicle for delivering this assistance is the Network's separate legal defense fund, which has substantial financial resources available for the legal defense of Network members. The Armed Citizens' Legal Defense Network's advisory board, consisting of industry experts, including Massad Ayoob, John Farnam, Jim Fleming, Tom Givens and Dennis Tueller, along with the Network President Marty Hayes and Network Vice President Vincent Shuck, is responsible for administering the legal defense fund.

Our Mission-Education

Early in the formation of the Network, we identified two foundational elements of the Network's mission. The first is to educate lawfully armed citizens about their rights and responsibilities. This booklet is a part of that undertaking, as are educational DVDs we produce and provide to our members. We also publish an online journal that is chock full of articles regarding self-defense issues. You can download our monthly journals at http://www.armedcitizensnetwork.org/our-journal.

Bad advice, incorrect assumptions and old wives' tales permeate the world of the armed citizen. This enormous body of misinformation needs correction and we are working to solve this problem. In charting the Network's future, we anticipate expanding our educational efforts to reach more and more lawfully armed citizens. This we do in an effort to prevent uninformed armed citizens from making mistakes when they use deadly force in self defense.

Our Mission-Legal Assistance

While our educational programs are intended for a broad audience, we also have at the heart of the Network, the commitment to aid and assist our Network members if they have to use deadly force in self defense. Our responsibility is to Network members; the organization is not a charity. To obtain financial assistance, one must first be a member of the Armed Citizens' Legal Defense Network, Inc.

A host of benefits aid and assist the Network member in the aftermath of a self-defense incident. First, we are developing a network of Affiliated Attorneys

who have agreed to represent Network members after a self-defense shooting. To be sure the member has legal representation in the days immediately following a self-defense shooting, the Foundation will immediately send the member's attorney a deposit against fees. $5,000 is sent to if misdemeanor charges are brought; a $10,000 deposit is paid if the incident results in felony charges. These funds are earmarked to ensure that the member has an attorney present during questioning and that other steps are taken to protect his or her legal rights. The attorney is also expected to initiate an independent investigation into the shooting. I cannot stress enough the importance of this protection! It could truly make the difference between freedom and life in prison.

If requested, a member of the Network leadership team can also respond to assist the member through our "Boots on the Ground" program, which is designed to put a liaison on location, acting on the member's behalf to arrange for the all-important legal representation in cases in which the member has not secured the assistance of their own attorney, or if they have traveled out of their home area and their own attorney is too far distant to be of much help.

Finally, in the event of a wrongful prosecution or civil suit resulting from a self-defense incident, the member can apply for financial assistance to help defray the costs of that legal defense. This benefit is at the heart of our legal assistance mission and is intended to ensure the member has the best legal defense possible. 25% of all Network membership dues are deposited directly into this legal defense fund. As the Network grows over the years, this fund multiplies, so no member of the Armed Citizens' Legal Defense Network, Inc. need fear bankruptcy for exercising their God-given right to self defense.

In Closing

I invite you, the reader of this booklet, to join the ranks of thousands of armed citizens who have discovered the benefits of being a member of the Armed Citizens' Legal Defense Network, Inc. In addition to the educational and legal benefits of belonging to the Network, many members report the most important benefit of being a Network member is peace of mind, knowing that if they do need to use deadly force in self defense, they will not face the legal aftermath alone.

Marty Hayes
President, Armed Citizens' Legal Defense Network, Inc.
April 2011

Network Membership Application

Name _____

Add'l. Member's Name* _____

Mailing Address _____

City _____ State _____ Zip _____

Phone _____ - _____ - _____

E-mail _____

APPLICANT'S STATEMENT:

With my signature, I hereby attest that under the laws of the United States of America, I am not legally prohibited from possessing firearms, that I am 18 years of age or older, and that I legally reside in the United States. I understand that any grant of benefits is limited to lawful acts of self defense with no additional criminal charges (unlawful possession of concealed handgun, for example) associated with the incident.

_____

Applicant's Signature(s)

Membership Type
Please Mark One

- ❑ $85.00 1-Year Individual Membership
- ❑ $225.00 3-Year Individual Membership
- ❑ $650.00 10-Year Individual Membership
- ❑ * Add $50 Each Additional Household Resident Per Year

- - - - - - - - - - - - - - - Payment Details- - - - - - - - - - - - - -

❑ Charge my card ❑ Check enclosed

CREDIT CARD CHARGE AUTHORIZATION

I, _____ (Clearly print name as it appears on credit card)

hereby authorize Armed Citizens' Legal Defense Network, Inc. to charge $_____._____ on my VISA or MasterCard (circle one)

_____/_____/_____/_____

Card Account Number

Expiration Date _____/_____ CVV** _____

**3-digits on back of card, right side

Full billing address (if different than above mailing address):

_____

(Street Address or Box Number, City, State and Zip Code)

I agree to pay the amount indicated above.

_____

(Signature authorizing charge)

Please mail to the Armed Citizens' Legal Defense Network, Inc.
P. O. Box 400, Onalaska, WA 98570 or fax to 360-978-6102

Do You Worry About the Aftermath of a Self-Defense Shooting?

The information in this booklet, provided by the Armed Citizens' Legal Defense Network, Inc., introduces gun owners to legal realities of which they should be aware before trouble strikes.

The Network's mission is to prevent miscarriages of justice through—

- Educating members about the legalities of using deadly force for self defense and how to interact with the criminal justice system after a shooting.
- Providing up to an initial $10,000 fee deposit to the member's attorney if the member has been involved in a self-defense shooting—paid to get the legal defense immediately underway, with representation during questioning, and arranging for an independent investigation of the incident.
- Case review by a Network self-defense expert at no charge and consultation about defense strategies when requested by the member's attorney.
- Grants of financial assistance from our legal defense fund for members facing unmeritorious prosecution or civil action after a self-defense shooting.
- Publishing a monthly journal online with columns and features focused on topics of interest to armed citizens.
- Discounts for members on books and DVDs from the Network online store to encourage further education.
- Creating a nationwide network of attorneys and legal experts upon which the member can draw in the event of a self-defense shooting.

For more information, visit www.armedcitizensnetwork.org, call 360-978-5200 or write to P. O. Box 400, Onalaska, WA 98570

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